

AMENDED IN ASSEMBLY MARCH 27, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1648

Introduced by Assembly Member Salinas

February 23, 2001

An act to amend Section 18402 of, and to add Sections 18031.3, 18700.1, 18700.2, and 18700.3 to, the Health and Safety Code, relating to ~~mobilehome parks~~ *mobilehomes and manufactured housing, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1648, as amended, Salinas. ~~Mobilehome parks~~ *Mobilehomes and manufactured housing.*

(1) Existing law, the *Mobilehome-Manufactured Housing Act of 1980*, makes it a misdemeanor to knowingly alter or convert, or cause to be altered or converted, installations or equipment of a manufactured home, mobilehome, recreational vehicle, or commercial coach that bears a Department of Housing and Community Development insignia of approval or federal label when the manufactured home, mobilehome, recreational vehicle, or commercial coach is used, occupied, sold, or offered for sale within the state, unless its performance as altered or converted is in compliance with department regulations.

The act authorizes the department to establish a schedule of fees to pay costs of work related to administration and enforcement of the act.

Existing law establishes the *Mobilehome-Manufactured Home Revolving Fund*. Moneys deposited into the fund are continuously appropriated for purposes of the act.

This bill would require any person required to obtain a permit in order to comply with the above-described regulations who fails to do so to pay a penalty of 100 percent of the permit fee. This penalty would be deposited into the Mobilehome-Manufactured Home Revolving Fund. Because the bill would increase the amount of moneys deposited into a continuously appropriated fund, this bill would make an appropriation.

(2) Existing law, known as the Mobilehome Parks Act, requires the owner or operator of a mobilehome park to abate any nuisance in the park within a prescribed period after written notice to remove the nuisance and requires the district attorney of the county in which the greater portion of the park is located to bring a civil action to abate the nuisance.

This bill would authorize, in addition, the county counsel of the county in which the greater portion of the park is located or the city attorney when the park is located within the jurisdiction of the city to bring a civil action to abate the nuisance.

~~(2)~~

(3) The act requires an enforcement agency that, upon inspection, determines that a mobilehome park is in violation of any provision of the act, or any rule or regulation adopted pursuant to the act, to issue a notice to correct the violation to the owner or operator of the mobilehome park within 10 days after completion of the inspection and determination that a violation exists. The Department of Housing and Community Development is required to prescribe procedures for an informal conference and for any subsequent hearings or appeals to dispute a determination by the enforcement agency regarding the alleged violation, the alleged failure to correct the violation in the required timeframe, or the reasonableness of the deadline for correction specified by the notice of violation.

Existing law makes it a misdemeanor for a person to willfully violate the act, the published building standards relating thereto, or any other rules or regulations adopted by the department pursuant to the act. It also subjects the holder of a permit to operate a park who willfully violates these provisions to suspension or revocation of the permit and subjects any person who willfully violates these provisions to liability for civil penalties.

This bill would authorize, ~~as an alternative~~ in addition to the above-described penalties, the Director of the Department of Housing and Community Development or a designee or an employee authorized by a local enforcement agency that has assumed jurisdiction over



enforcement of the act to issue a citation that assesses a prescribed civil penalty to certain persons that have violated the act or regulations adopted pursuant to the act and permitted the continuation of the violation for at least 30 days after issuance of a notice to correct.

The bill would prescribe procedures for petitioning the director or a designee or the authorized representative of the local enforcement agency regarding the citation. Any hearing held pursuant to these procedures would not be subject to the Administrative Procedure Act.

Vote: majority. Appropriation: ~~no~~—yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 18031.3 is added to the Health and*
2 *Safety Code, to read:*
3 18031.3. *Any person required to obtain a permit in order to*
4 *comply with the regulations adopted pursuant to Section 18029*
5 *who fails to obtain a permit shall, in addition to the fees specified*
6 *pursuant to Section 18031, pay a penalty of 100 percent of the*
7 *permit fee. Penalties collected pursuant to this section shall be*
8 *deposited in the Mobilehome-Manufactured Home Revolving*
9 *Fund.*
10 SEC. 2. Section 18402 of the Health and Safety Code is
11 amended to read:
12 18402. The owner or operator of a park shall abate any
13 nuisance in the park within five days, or within a longer period of
14 time as may be allowed by the enforcement agency, after the owner
15 or operator of a park has been given written notice to remove the
16 nuisance. If the owner or operator of a park fails to do so within
17 that time, the district attorney ~~or county counsel~~ of the county in
18 which the park, or the greater portion of the park, is situated shall
19 bring a civil action to abate the nuisance in the superior court of
20 the county in the name of the people of the State of California. In
21 addition to the district attorney, a county counsel of the county in
22 which the park, or the greater portion of the park is situated, or a
23 city attorney when the park is located within the jurisdiction of a
24 city, may bring a civil action to abate the nuisance in the superior
25 court of the county in the name of the people of the State of
26 California.
27 ~~SEC. 2.—~~

1 SEC. 3. Section 18700.1 is added to the Health and Safety
2 Code, to read:

3 18700.1. (a) In addition to other remedies provided in this
4 ~~part, except for the penalties provided in Section 18700, the part,~~
5 *the* Director of the Department of Housing and Community
6 Development or his or her designee or an employee authorized by
7 a local enforcement agency that has assumed jurisdiction pursuant
8 to Section 18300, may issue a citation that assesses a civil penalty
9 to any owner or operator, or both, of a mobilehome or special
10 occupancy park or other responsible party that violates this part,
11 or regulations adopted pursuant to this part, if the owner or
12 operator, or both, or other responsible party has permitted the
13 continuation of a violation for at least 30 days after ~~issuance~~ *the*
14 *expiration* of notice to correct the violation or violations from the
15 enforcement agency. Each citation and related civil penalty
16 assessment shall be issued no later than seven months after
17 issuance of the notice to correct that is the basis of the citation. The
18 penalties provided for in this section are ~~not~~ in addition to the
19 penalties specified in Section 18700.

20 (b) The amount of any civil penalty assessed pursuant to
21 subdivision (a) shall be one hundred dollars (\$100) for each
22 violation, but shall be increased to two hundred fifty dollars (\$250)
23 for each subsequent violation of the same prohibition for which a
24 citation for the subsequent violation is issued within one year of
25 the citation for the previous violation. The civil penalties assessed
26 pursuant to this section shall be payable to the enforcement agency,
27 notwithstanding any other provision of law. Whether or not the
28 violation or violations, if applicable, giving cause for the citation
29 are corrected, payment of the civil penalty shall be remitted to the
30 enforcement agency within 45 days of the issuance of the citation.

31 (c) Any person or entity served a citation pursuant to this
32 section may petition the director or his or her designee or the
33 authorized representative of the local enforcement agency, where
34 applicable. The petition shall be a written request briefly stating
35 the grounds of the request. Any petition to be considered shall be
36 received by the department or the local enforcement agency within
37 30 days of the date of issuance of the citation.

38 (d) Upon receipt of a timely and complying petition, the
39 enforcement agency shall suspend enforcement of the citation and
40 set a time and place for an informal hearing and shall give the

1 recipient of the citation written notice thereof. The hearing shall
2 commence no later than 30 days following receipt of the petition
3 or at another time scheduled by the enforcement agency pursuant
4 to a request by the petitioner or the enforcement agency if the
5 enforcement agency determines that good and sufficient cause
6 exists. If the petitioner fails to appear at the time and place
7 scheduled for the hearing, the enforcement agency may notify the
8 petitioner in writing that the petition is dismissed and that
9 compliance with the terms of the citation shall occur within 10
10 days after receipt of the notification.

11 (e) The enforcement agency shall notify the petitioner in
12 writing of its decision and the reasons therefor within 30 days
13 following conclusion of the informal hearing held pursuant to this
14 section. If the enforcement agency upholds the citation, in whole
15 or in part, the petitioner shall comply with the citation in
16 accordance with the decision within 30 days after the decision is
17 mailed by the enforcement agency.

18 ~~SEC. 3.—~~

19 *SEC. 4.* Section 18700.2 is added to the Health and Safety
20 Code, to read:

21 18700.2. (a) A mobilehome park owner or operator, or the
22 registered owner of a manufactured home, mobilehome,
23 recreational vehicle, or other responsible party, (1) who has
24 received a citation with civil penalties issued pursuant to Section
25 18700.1 by an enforcement agency other than the department, and
26 (2) who has received a final, formal order from the enforcement
27 agency following an informal hearing on a submitted petition,
28 shall be entitled to petition the department to review and
29 investigate, as necessary, the enforcement activities of the local
30 enforcement agency.

31 (b) The petition shall be in writing and shall include the
32 following:

33 (1) A copy of the original notice of violation, and citation.

34 (2) A copy of the enforcement agency's written determination,
35 if an informal hearing was held.

36 (3) A copy of the enforcement agency's final formal order.

37 (4) A clear and concise explanation of the issues that the
38 petitioner continues to dispute.

(c) The department shall consider the petition in conjunction with the department's responsibility to monitor local enforcement activity pursuant to subdivision (d) of Section 18306.

(1) Within 60 working days of the receipt of the petition, the department shall review the petition and provide the petitioner with written notice of whether the activities of the local agency require investigation by the department.

(2) If the department has determined that the activities of the local agency require investigation by the department, the written notice to the petitioner shall provide a timeframe for the investigation.

(3) If the department investigates the enforcement activities of a local agency in response to one or more petitions provided pursuant to subdivision (a), the department shall notify each petitioner within 60 days of the results of the department's investigation.

(d) If the department finds that the notice of violation, citation, written determination, or final, formal order issued by the local enforcement agency reflects nonenforcement of the law, the department shall initiate corrective action pursuant to subdivision (d) of Section 18300. This corrective action shall include, but not be limited to, cancellation of the civil citation.

~~SEC. 4.~~

SEC. 5. Section 18700.3 is added to the Health and Safety Code, to read:

18700.3. Notwithstanding any other provision of law, any hearing held pursuant to Section 18700.1 or Section 18700.2 shall not be subject to the Administrative Procedure Act.

CORRECTIONS

Text — Page 4.